

COMMISSIONERS APPROVAL

CHILCOTT 

THOMPSON 

LYONS 

PLETTENBERG (Clerk & Recorder)

Date.....April 12, 2007

Members Present.....Commissioner Greg Chilcott,
Commissioner Alan Thompson and Commissioner Howard Lyons

Minutes: Glenda Wiles

Commissioner Chilcott returned from the JPIA meeting in Helena.

The Board met on a Request for Commission Action on the Greathouse Place Minor
Subdivision. Commissioner Chilcott was not present for this meeting. Minutes of the
meeting are as follows:

Ravalli County Board of County Commissioners (BCC)

Meeting Minutes for April 12, 2007

9:00 a.m.

Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

1. Call to order

Commissioner Thompson called the meeting to order at 9:00 AM.

2. BCC and Staff

(A) BCC

Greg Chilcott (Late)
Alan Thompson (Present)
Howard Lyons (Present)

(B) Staff

John Lavey

3. Public Meeting

(A) Greathouse Place (Greathouse) Minor Subdivision

(i) Board action on the Subdivision Proposal

(a) Board Decision

Commissioner Lyons made a motion to **approve** the Greathouse Place minor subdivision, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report, amending Condition 6 to state that the subdivider shall submit a letter or receipt from the Florence School District stating that they have received a \$250 contribution for Lots A1 – A4 prior to final plat approval, or the subdivider may place an encumbrance on the final plat stating that a \$250 contribution for Lots A1 – A4 shall be made to the School District upon first conveyance, including lease or rent, lots A1 – A4.

Commissioner Thompson seconded the motion and the Commissioners voted 2-0 to **approve** the subdivision.

The Board held a public hearing to establish a Stream Side Set Back Committee. Planning Staff Members Shaun Morrell, Flood Plain Administrator Laura Hendrix and Planning Director Karen Hughes were present as were numerous members of the community. Commissioner Thompson called the meeting to order noting proper public notice has been given.

Shaun presented a staff report with recommendation to approve the Resolution to establish the Ravalli County Streamside Setback Committee.

Commissioner Thompson noted an email from Dan Schultz and Dan Huls to support the establishment of the committee.

Executive Director Lori Riley of the Bitterroot Water Forum stated they are looking forward to making a difference for the citizens and fish and wildlife. They are requesting two recommendations: allowing a member of Trout Unlimited to be a part of the committee; and that Chris Clancey of Fish Wildlife and Parks is named for the open the biologist's position.

Ray Carr of Stevensville, President of the North Valley Packyrederm and part of the Bitterroot River Protection Association stated he does not see the need for a streamside set back as the river is protected by the laws we have today. DNRC and the Bitterroot Conservation District manage the 310 permits and the Corp of Engineers manages the river. He asked about the costs of having another bureaucracy. He stated these issues need to be looked at before we set the stream side buffer zone.

Michael Howell of the Bitterroot Star Newspaper and Executive Member of Bitterroot River Protection Association stated these rules could affect his property since he owns next to a stream. He appreciates his property rights but he is in favor of this committee. The vital reason is a protection of public resources. His house was built in 1861 and at that time water protection was not an issue, but now he sees the enormous amount of wildlife that utilizes this corridor realizing they need protection too. He stated he would like a Bitterroot Trout Unlimited Member and Ravalli County Fish and a Wildlife Member on this committee.

Carl Fox lives near Lick Creek. His property is unique because part of the river flows through a ditch with an easement through his property. He personally has no plans to come very close to the ditch except for a fence and this set back would be good, but he wonders about the cost. (Costs that is specific to mapping etc.) Also, he stated it might be better if easements were given by the property owners, rather than 'takings' now. In Nevada, the Supreme Court just awarded 14 million dollars for those 'takings' of those properties. It might be better to let the state do this and pay the bills. The County has too many law suits now and this might triple our taxes.

Sarah Roubick stated she owns property on the river and has a biology degree. As an appraiser she recognizes the value of the river. The river does not stay channelized and it is constantly moving. When houses are built too close to the river, they then place rip rap which again changes the river, but artificially. She stated there are some great economics to the river such as fly fishing; thus for economics we need to keep the river safe.

Eddie Alwell of Stevensville represents the Trout Unlimited. He states their mission is to protect cold water fisheries. Setbacks will protect these fisheries. They also do projects on tributaries. A lot of hard work can be wiped out by poor management upstream. He is a fly fisherman and understands the importance of giving something back for future generations. The future of his fly fishing business relates to the health of the river. As a citizen he owns 21 acres with a creek running through it. He loves to fish, and feels strongly that if we preserve our resources, we preserve our land values. We have been involved in this process for the past two years. Trout Unlimited likes the committee and the setback will represent a broad base of citizens. He stated he is concerned about certain organizations that might have a self serving interest on this committee and would like to see more representation by Fish Wildlife. He would like Chris Clancey and a member of Trout Unlimited to serve on this committee. The out doors are part of our heritage and the river is a priceless commodity.

Darryl Binkerd stated due to the poor record of this Commission Board he is speaking in order to come to the defense of the Bitterroot. He owns 300 acres next to Fort Benton which has a 400' set back. He stated his 400' is a good set back as there is no price too great in order to protect the Bitterroot River. He is disappointed that the Friends of Bitterroot are not represented as well as other conservation groups. He hopes to see more environmental groups on this committee.

Doug Soehren stated he is a member of the Friends of the Bitterroot (FOB). There are several hundred local members who are concerned about the future of streams and river. He personally lives next to Skalkaho Creek. The FOB has been involved in environmental issues since 1988. They have been outspoken and have tried to preserve the natural resources of the valley. Natural resources are our most valuable asset. The FOB feels this committee is very important and they deserve a 'seat' on this new committee. If they do have a place they will do everything they can to look at the science of set backs along with the issue of property values.

Carlotta Grandstaff is in favor of the committee. She felt Chris Clancey would be a good addition, as well as the local chapter of Trout Unlimited, and FOB because FOB and Realtors need to work together in areas of like concern.

Doug Nation lives in Hamilton. He states it is important to have this step and it is over due. The Conservation District does not have any control of where people build; rather they protect the property after they build. He stated they need to protect the streams and proactively address where people build their homes.

John Ormiston, a retired Wildlife Biologists stated from a wildlife viewpoint, riparian areas give productivity to fisheries. Thus they are imperative for streamside protection. The committee needs to be collaborative and reasonable in their protection.

Linda Habeck has property in the river bottom. She stated she agrees with everyone. She would like to see Ravalli County Fish and Wildlife, Chris Clancey and Trout Unlimited on the committee

Deb Essen crosses Fred Burr Creek everyday which is usually 4". But in heavy rains it went to 5' deep. It also washed her neighbor's yard from 25 feet to 3 feet from the back yard. She stated they need to have a well represented, balanced group. The Board of Realtors recommendation on set backs would have taken out more of people's yards. She stated the county needs to be smart about where construction is allowed. Deb also relayed that Barbara Kitchens property flooded. She also saw the need to include the conservation members on this committee.

Jim Rokosch of Stevensville stated he is glad for the committee. He is a professional biologist and research specialist with U of M within the Fisheries Division. He encourages looking at it from a private landowner perspective and from a public resource perspective. Restoration and habitat improvements benefit private property values. He stated it is important to help maintain the stream bank and riparian which will benefit the wildlife. He came here 24 years ago, and he stated 'we can eat the scenery' because by protecting the riparian areas we protect a component of the county's economic development and value of the community. He also felt it is important to incorporate streamside setbacks into the zoning process. He also stated he would like to see the local chapter of Trout Unlimited and the Ravalli County Wildlife Association be included on this committee. Ira Holt has been working at state level and he should be included in this

committee. He also noted Chris Clancey has done a great deal of work in this area. And the Board of Realtors efforts can be melded with Chris's work.

Barbara Kitchens lives on Meridian Road and she stated she would like to clarify the record. There was a flood where she lives because the Road Department replaced one large culvert with three small ones. Her flooding is not an issue of stream side set back. This is misinformation from Deb Essen.

Kathleen Driscoll has been a realtor since 1991 and appreciates realtors bringing this action but is also glad to see the balance of the committee. Realtors market property, and the committee members are volunteers and that gives a broad base of people which will help market the properties. Trout unlimited should be at the table and the Board Realtors will balance out the FOB. Then everyone wins.

Chuck Stranahan is the owner of a local business called the Fly Shop. He feels the river is the life blood of the valley and without the river we would see another highway and more homes. The vitality and commerce is connected to the river. He felt it is imperative to take care of our rivers. Having hydrologists on the committee is a good thing, but he would like to see human ergonomics considered (how far we all sit next to each other). We are polarized in our community and this committee needs to help meet a middle ground. Good building sites maintain property values. Another consideration is the timeliness; will there be procedural delays while more properties are being developed?

Kirk Machesney remembers putting a canoe on the river at a certain access points and then goes to Hamilton or Stevensville, because the Army Corp ditched the river. Then the landowners armored their own banks with junk cars. Now we see more permits being applied for and issued for houses that should not have been built next to the river in the first place. He states that because the set backs do not exist, there are some houses that are already causing problems. He thinks 'the train needs to be slowed down' by the methods there were being developed (by Board of Realtors) as they have a different interest than the balance of the community.

Public comment was now closed.

Commissioner Lyons stated he had no comment at this time.

Commissioner Thompson stated the people need to understand this action is for a committee establishment, not policies, etc. Commissioner Thompson stated he wants to give consideration for the requests here today. He felt it is important to have conservationists, experts, and owners of property near stream and citizens. He felt it is important to have a good cross section. He also noted there are reasons for the various board members to be part of the committee. He also agrees the Bitterroot River is part of the county's life blood, and he agrees with the protection of property rights. In regard to costs, these are volunteer boards. This is not a long term permanent board and will only

exist until the recommendation comes from the Board of County Commissioners. He appreciates the input and citizen participation.

Commissioner Lyons stated he is a land owner and a member of agricultural organizations. He is representing people who are not here today. He stated he can not make the motion because of questions and costs that could be involved. He stated 'it gives right of way for people to walk up and down on other people's property'.

Commissioner Chilcott was now present from his return trip to Helena.

Commissioner Thompson gave a recap of the meeting to Commissioner Chilcott.

Commissioner Chilcott requested a five minute recess so he could review the minutes.

Commissioner Chilcott now presided as Chair.

Commissioner Chilcott stated he was curious as to why Commissioner Lyons made certain comments, asking Commissioner Lyons to explain what he meant.

Commissioner Lyons reiterated part of what Carl Fox stated in regard to obtaining easements instead of taking people's property. He stated there are some other ways they could go about this instead of taking people's property away. Further, that some people would get a right-of-way across the creeks and people are paying taxes and people come on to other people's property. He stated he 'would like some more talking about it first'. He stated the County Attorney has asked where the maps would come from. Karen stated those comments had to do with a specific proposal that made reference to map. She noted the county could do streamside set backs without a map depending upon what is being referenced in the requirements.

Commissioner Lyons asked about horizontal measurements. Commissioner Chilcott stated that Commissioner Lyons is talking about policies and regulations that have not been approved yet. This is simply establishing a committee to make recommendations to the Commissioners. Commissioner Chilcott stated that he does not want to look at the broad-brush setback the state is looking at. He advised Commissioner Lyons there is no discussion as to what the regulations will be; this is simply to set up an advisory committee to the Commissioners. Commissioner Chilcott further advised Commissioner Lyons that the ultimate decision of policies and regulations will be made by the Commissioners. Commissioner Chilcott reiterated this is simply a process which would include the citizens and create the framework for discussion.

Commissioner Lyons stated he will not sign this resolution. Commissioner Chilcott stated he would like to understand his reasoning.

Commissioner Lyons addressed the second whereas – "unregulated development along stream and river corridors" which he stated does not exist. Commissioner Chilcott asked

"how would you amend"? Commissioner Lyons replied that 'he won't go there at this date'.

Commissioner Chilcott stated that this is worthy of discussion as to what the county can create.

Commissioner Lyons stated he also has problems with the second whereas; because it reads like a fact when it is something they can not support by evidence. He felt it was like a political statement.

Commissioner Thompson asked if the word 'may' could be inserted. Karen stated they could take out the second whereas. Commissioner Chilcott stated the committee could determine if the second whereas has any merit or not. Commissioner Thompson agreed with that removal. Commissioner Lyons stated that second whereas 'is pretty offensive'. He stated he had phone calls last night and this morning of people that could not be here and they are in fear of what is being done here this morning. Commissioner Lyons added that a lot of these people that would be on the committee have 'no irons' in the fire' (they don't live by a waterway). He stated the expectations of the boards are at someone else's cost and it changes private property rights to community property rights.

Commissioner Chilcott explained that they are simply creating a body to entertain the issues, bring recommendations back to the Commissioners. Commissioner Chilcott asked if there was a way to take the 'objectionable part' of the resolution and amend it to make Commissioner Lyons comfortable with it. Commissioner Lyons replied 'it is out of the question'.

Commissioner Chilcott indicated they could amend section 3 (d) to read: "two owners of property that live on streams", and to take out 'or near' and 'corridor'.

Commissioner Chilcott also commented he had received a phone call from Realtors Association addressing the work they have done and money they have expended. They also notified him that an element of the contract reads: "if the project is not completed the contractor retains ownership of the data that has been done thus far" (the owner being the Board of Realtors). He stated he would not like to recreate something that has already been done.

Commissioner Thompson stated he could not agree with any further changes to the Resolution because they are simply establishing a committee of citizens all over the county. He understands that it will affect those who live on the streams and rivers, but it should not be taken as a negative, as these setbacks can enhance the property values and this resolution has nothing to do with those regulations. He asked if they did not form this committee today, when would they have the opportunity. He further stated the Board of Realtors earns money from selling property. There are those that make money on the river and those who simply recreate. All of us are concerned with water. We need the committee to look at what we need to do. We look at their information, discuss it, reject or accept. Commissioner Thompson stated he is very much in favor of this resolution.

Commissioner Chilcott stated he will not support any regulation that is not science based. He will not accept a 500 or 100 feet broad brush set back approach, unless it is supported by science and facts. He thanked the Board of Realtors for their time and expense; as they too looked to science to base their setbacks. They were met with suspicion and that was unfortunate. Without their participation the cost to the county is more. He stated he would like to continue to foster relations with those who 'put their money where there mouth is" (Board of Realtors).

Commissioner Lyons then relayed that what Commissioner Chilcott and Commissioner Thompson just stated clears up the questions that he has, and if this moves forward on a broad based recommendation, he will support the resolution.

Commissioner Thompson made a motion to adopt the Resolution with the amendments of striking the second whereas, and under 3d take out 'or near' and corridor' making streams and rivers plural. Commissioner Lyons seconded the motion. Discussion: Commissioner Thompson encouraged those interested to send in applications etc. for this committee. All voted "aye".

Curt asked Commissioner Thompson if applications can be on the web. Commissioner Chilcott stated if a person is interested, they should apply their experience to the category of the board member position they would fit into with a letter of intent and deliver it to Glenda.

The meeting was adjourned.

In other business the Board met to open bids for Weed control work on the Department of Transportation Right of Ways. Commissioner Thompson noted the legal notice for this bid was in order. Only one bid was received from Bitterroot Spraying for a total amount of \$8,480.00. Commissioner Lyons made a motion to have the Weed Department review this bid and make a recommendation to the Commissioners for bid award. Commissioner Thompson seconded the motion and all voted 'aye'.